

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 7 of 16

**-- REMARKS --**

**A. Claims 1-7 were rejected under 35 U.S.C. §102(e) as being anticipated by Girod (U.S. Patent 6,677,987).**

The §102(e) rejection of claims 1-7 is traversed. For this anticipation rejection to stand, each and every element of the claimed invention must be disclosed by the reference. Because Girod does not disclose a "control unit [that] detects the position of the hand-held device", as claimed in independent claim 1, Girod cannot anticipate the instant claims

At most, Girod discloses a digital video decoder, which the Examiner likens to the claimed "control unit [that] detects the position of the hand-held device." Girod discloses that a "digital video decoder" "compares successive frames of digital video images for the purpose of detecting movement of light source 202 as represented in the digital video images" Girod, column 5, lines 3-6. Thus, Girod does *not* disclose a "control unit [that] detects the position of the hand-held device" and instead discloses a digital video decoder that detects *movement* of light source 202.

Claims 2-7 depend directly or indirectly from claim 1 and are therefore patentable over Girod for at least the same reasons.

Additionally, Girod does not disclose that the light detector is a digital camera, as claimed in claim 2, contrary to the Examiner's allegation. At most, Girod discloses that "camera circuit arrangement 204 is a camera that captures a scene and converts the scene to a digital video image." See, Girod column 4, lines 51-56. Those of ordinary skill in the art readily recognize the differences between digital cameras, and cameras that convert an image to digital video images.

Withdrawal of the rejections to claims 1-7 is requested.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 8 of 16

**B. Claims 8-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Girod in view of Lin (U.S. Patent 6,346,933B1).**

The §103(a) rejection of claims 8-9 is traversed. Claims 8-9 depend indirectly from claim 1 and are therefore patentable over the references for at least the same reasons as given above. Claim 10 depends from claim 1 and is therefore patentable over Girod in view of Kim for at least the same reasons. See MPEP §2143.03 and *In Re Fine* (where an independent claim is non-obvious, any claims depending therefrom are also nonobvious.)

Furthermore, the mere fact that the references *could* be modified to arrive at the claimed invention (which Applicants do not concede and actively dispute) is insufficient to prove a prima facie case. See MPEP 2143.01, *In Re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990) and *In Re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). While Applicants do not agree that the modification of the reference would result in the claimed invention, there must be some motivation or suggestion in the references to modify in order to support a prima facie case of obviousness. In the absence of any such motivation or suggestion, the rejection must fail.

Since the references do not show or teach or suggest a "control unit [that] detects the position of the hand-held device," Applicants request the Examiner withdraw the rejection. If Examiner wishes to maintain the rejection, Applicants traverse the statement "... it would have been obvious ..." and request the Examiner to make a showing in the prior art or in the form of an examiner declaration/affidavit supporting the conclusion that it is well known to provide a control unit that detects the position of a hand-held device. See, MPEP §706.02(a): "If the Applicant traverses such an assertion, the Examiner should cite a reference in support of his/her position." Absent such a showing, Applicants respectfully request allowance of the claims.

Withdrawal of the rejections to claims 8-9 is requested.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 9 of 16

**C. Claim 10 was rejected as unpatentable under 35 U.S.C. §103(a) over Girod in view of Kim**

The §103(a) rejection of claim 10 over Girod in view of Kim is traversed.

Claim 10 depends from claim 1 and is therefore patentable over Girod in view of Kim for at least the same reasons. *See* MPEP §2143.03 and *In Re Fine* (where an independent claim is non-obvious, any claims depending therefrom are also nonobvious.)

Withdrawal of the rejection to claim 10 is requested.

**D. Claims 11-16 were rejected as unpatentable under §103(a) over Girod in view of Fitts**

The §103(a) rejection of claims 11-16 as unpatentable over Girod in view of Fitts is traversed.

Claims 11-16 are dependent claims, depending directly or indirectly from claim 1, and are therefore patentable over Girod in view of Fitts for at least the same reason. *See* MPEP §2143.03 and *In Re Fine* (where an independent claim is non-obvious, any claims depending therefrom are also nonobvious.)

Fitts is cited for the teaching of two digital cameras with digitizers and processing of digital images. However, Fitts does not teach a "control unit [that] detects the position of the hand-held device" and therefore the references alone or in combination do not teach each and every element of the claims.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 10 of 16

Since the references do not show or teach or suggest a "control unit [that] detects the position of the hand-held device," Applicants request the Examiner withdraw the rejection. If Examiner wishes to maintain the rejection, Applicants traverse the statement "it would have been obvious ..." and request the Examiner to make a showing in the prior art or in the form of an examiner declaration/affidavit supporting the conclusion that it is well known to provide a control unit that detects the position of a hand-held device. See, MPEP 706.02(a): "If the Applicant traverses such an assertion, the Examiner should cite a reference in support of his/her position." Absent such a showing, Applicants respectfully request allowance of the claims.

Withdrawal of the rejections to claims 11-16 is requested.

**E. Claims 17-21 were rejected as unpatentable under 35 U.S.C. §103(a) over Girod in view of Arita**

The §103(a) rejection of claims 17-21 as unpatentable over Girod in view of Arita is traversed.

Claims 17-21 are dependent claims, depending directly or indirectly from claim 1, and are therefore patentable over Girod in view of Arita for at least the same reason. See MPEP 2143.03 and *In Re Fine* (where an independent claim is non-obvious, any claims depending therefrom are also nonobvious.)

Arita is cited for the teaching of two light sources in one hand-held unit. However, Arita does not teach a "control unit [that] detects the position of the hand-held device" and therefore the references alone or in combination do not teach each and every element of the claims.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 11 of 16

Since the references do not show or teach or suggest a "control unit [that] detects the position of the hand-held device," Applicants request the Examiner withdraw the rejection. If Examiner wishes to maintain the rejection, Applicants traverse the statement "it would have been obvious ..." and request the Examiner to make a showing in the prior art or in the form of an examiner declaration/affidavit supporting the conclusion that it is well known to provide a control unit that detects the position of a hand-held device. See, MPEP 706.02(a): "If the Applicant traverses such an assertion, the Examiner should cite a reference in support of his/her position." Absent such a showing, Applicants respectfully request allowance of the claims.

Withdrawal of the rejections to claims 11-16 is requested.

**F. Claim 22 was rejected as unpatentable under 35 U.S.C. §103(a) over Girod in view of Fitts**

The §103(a) rejection of claim 22 as unpatentable over Girod in view of Fitts is traversed.

Claim 22 is a dependent claim, depending directly from claim 1, and is therefore patentable over Girod in view of Fitts for at least the same reason. See MPEP §2143.03 and In Re Fine (where an independent claim is non-obvious, any claims depending therefrom are also nonobvious.)

Fitts is cited for the teaching of using visible light for the light source. However, Fitts does not teach a "control unit [that] detects the position of the hand-held device" and therefore the references alone or in combination do not teach each and every element of the claims.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 12 of 16

Since the references do not show or teach or suggest a "control unit [that] detects the position of the hand-held device," Applicants request the Examiner withdraw the rejection. If Examiner wishes to maintain the rejection, Applicants traverse the statement "it would have been obvious ..." and request the Examiner to make a showing in the prior art or in the form of an examiner declaration/affidavit supporting the conclusion that it is well known to provide a control unit that detects the position of a hand-held device. See, MPEP 706.02(a): "If the Applicant traverses such an assertion, the Examiner should cite a reference in support of his/her position." Absent such a showing, Applicants respectfully request allowance of the claims

Withdrawal of the rejection to claim 22 is requested.

**G. Claim 23 was rejected as unpatentable under 35 U.S.C. §103(a) over Rice in view of Girod**

The §103(a) rejection of claim 23 as unpatentable over Rice in view of Girod is traversed. In order to maintain this obviousness rejection, each and every element of the claimed invention must be taught or suggested, in at least as great detail as claimed, by the references. Because Rice in view of Girod does not teach or suggest "the control unit detects the positions for each of the two or more movable hand-held devices," as claimed in claim 23, this rejection must fail

The Examiner does not suggest that Rice teaches the claimed element, instead relying on Girod for such a teaching. However, as outlined above, Girod does not teach the claimed "the control unit detects the positions for each of the two or more movable hand-held devices".

Withdrawal of the rejection to claim 23 is requested.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 13 of 16

**H. Claims 24-26 were rejected were rejected as unpatentable under 35 U.S.C. §103(a) over Rice and Girod in view of Kim**

The §103(a) rejection of claims 24-26 as unpatentable over Rice and Girod in view of Kim is traversed.

Claims 24-26 are dependent claims, depending directly or indirectly from claim 23, and are therefore patentable over Rice and Girod in view of Kim for at least the same reason. See MPEP §2143.03 and *In Re Fine* (where an independent claim is non-obvious, any claims depending therefrom are also nonobvious.)

Neither Rice nor Girod teaches, suggests or discloses a "control unit [that] detects the position of the hand-held device" and therefore the references alone or in combination do not teach each and every element of the claims.

Since the references do not show or teach or suggest a "control unit [that] detects the position of the hand-held device," Applicants request the Examiner withdraw the rejection. If Examiner wishes to maintain the rejection, Applicants traverse the statement "it would have been obvious ..." and request the Examiner to make a showing in the prior art or in the form of an examiner declaration/affidavit supporting the conclusion that it is well known to provide a control unit that detects the position of a hand-held device. See, MPEP 706.02(a): "If the Applicant traverses such an assertion, the Examiner should cite a reference in support of his/her position." Absent such a showing, Applicants respectfully request allowance of the claims.

Withdrawal of the rejections to claims 24-26 is requested.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 14 of 16

**I. Claim 27 was rejected as unpatentable under 35 U.S.C. §103(a) over Rice, Kim, and Girod in view of Fitts**

The §103(a) rejection of claim 27 as unpatentable over Rice, Kim and Girod in view of Fitts is traversed

Claim 27 is a dependent claim, depending indirectly from claim 23, and is therefore patentable over Rice, Kim and Girod in view of Fitts for at least the same reason. See MPEP §2143.03 and *In Re Fine* (where an independent claim is non-obvious, any claims depending therefrom are also nonobvious.)

Neither Rice nor Kim nor Girod nor Fitts teaches, suggests or discloses a "control unit [that] detects the position of the hand-held device" and therefore the references alone or in combination do not teach each and every element of the claims.

Since the references do not show or teach or suggest a "control unit [that] detects the position of the hand-held device," Applicants request the Examiner withdraw the rejection. If Examiner wishes to maintain the rejection, Applicants traverse the statement "it would have been obvious ..." and request the Examiner to make a showing in the prior art or in the form of an examiner declaration/affidavit supporting the conclusion that it is well known to provide a control unit that detects the position of a hand-held device. See, MPEP 706 02(a): "If the Applicant traverses such an assertion, the Examiner should cite a reference in support of his/her position." Absent such a showing, Applicants respectfully request allowance of the claims.

Withdrawal of the rejection to claim 27 is requested.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 15 of 16

**J. New claims 28-29**

The prior art does not disclose, teach or suggest, each and every element of claims 28-29, and Applicants request allowance of those claims.

Specifically, with respect to claim 28, the prior art does not disclose, teach or suggest, in addition to the above elements, "the control unit detects the position of the hand-held device relative to the position of a user carrying the hand-held device." Additionally, with respect to claim 29, the prior art does not disclose, teach or suggest, in addition to the above elements, "the control unit detects the position of the hand-held device in three dimensions."

Indeed, Girod unequivocally teaches away from the elements of claims 28 and 29. Girod teaches that use of "a characteristic spatial pattern (shape) for the light is also possible..." but "it may be difficult to detect because of the varying distance and relative orientation between camera 108 and light source 110. The pattern may appear in various magnifications, rotations, and with various foreshortening, thus imposing a large computational burden for processing digital video images." *See*, Girod, column 4, lines 5-11.

February 11, 2005  
Case No.: US 000403 (7790/325)  
Serial No.: 09/746,045  
Filed: December 22, 2000  
Page 16 of 16

**CONCLUSION**

The Applicants respectfully submit that claims 1-29 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

Dated: **February 11, 2005**

Respectfully submitted,  
ANTONIO J. COLMENAREZ, *et al.*

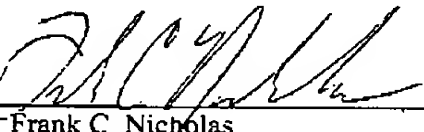
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